



April 24, 2001

Ms. Lamis A. Safa
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2001-1632

Dear Ms. Safa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 146339.

The City of Houston (the "city") received a request for copies of nine offense reports. You state that you will release the front-page information from each report to the requestor. You claim that the rest of the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

You claim that the two offense reports in Exhibit 2 are excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from disclosure "if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the investigations related to these reports did not result in conviction or deferred adjudication. Therefore, we understand that these investigations concluded in a final result other than conviction or deferred adjudication. Accordingly, we find that the two offense reports in Exhibit 2 may be withheld from disclosure pursuant to section 552.108(a)(2) of the Government Code.

You claim that the seven offense reports in Exhibit 3 are excepted from disclosure pursuant to section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) provides that information held by a law enforcement agency or prosecutor that deals with the detection,

investigation, or prosecution of crime is excepted from public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(a); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that release of the information will interfere with future investigation and prosecution of the alleged offenses if the complainants later decide to prosecute the cases. Thus, we believe that release of the seven offense reports would interfere with the detection, investigation, or prosecution of crime. Accordingly, you may withhold the seven offense reports in Exhibit 3 from disclosure pursuant to section 552.108(a)(1) of the Government Code.

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. See Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information in Exhibits 2 and 3 from disclosure. Because we base our ruling on section 552.108, we need not address the applicability of sections 552.101 and 552.130 of the Government Code to the submitted information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be

provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/RJB/seg

Ref: ID# 146339

Encl. Submitted documents

cc: Mr. Randy Schaffer
1301 McKinney, Suite 3100
Houston, Texas 77010
(w/o enclosures)